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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(San Joaquin)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
AARON CHRISTOPHER WARFIELD,  
  
Defendant and Appellant.

C069710  
  
(Super. Ct. No.  
SF118441A)

This appeal raises a single issue as to presentence custody credits. Agreeing with defendant that he is entitled to three additional days of conduct credit, we shall remand with directions to the trial court to amend the judgment.

**FACTUAL AND PROCEDURAL BACKGROUND**

In September 2011, the People filed a complaint alleging that defendant Aaron Christopher Warfield had received stolen

property (Pen. Code,<sup>1</sup> § 496, subd. (a)) and had served five prior prison terms (§ 667.5, subd. (b)). The charge stemmed from defendant's possession of 27 pieces of stolen mail, which he admitted stealing, in July 2011.

On September 26, 2011, defendant pled guilty to violating section 496, subdivision (a); pursuant to his plea, the trial court struck the enhancements and sentenced him to two years in state prison and awarded him 19 days of presentence custody credit (11 actual days and eight conduct days).

Defense counsel filed a motion in the trial court for correction of presentence credits (§ 1237.1), arguing that defendant was entitled to 11 conduct days under section 4019, subdivision (f), for a total award of 22 days of presentence credit. The record does not show any response by the trial court.

### **DISCUSSION**

Defendant argues that he is entitled to three additional days of conduct credit, citing former section 2933, subdivision (e)(1) (eff. Sept. 28, 2010, repealed eff. Oct. 1, 2011) and current section 4019, subdivisions (f) and (h).<sup>2</sup>

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<sup>1</sup> Further undesignated statutory references are to the Penal Code.

<sup>2</sup> Former section 2933, subdivision (e)(1) provided: "Notwithstanding Section 4109 and subject to the limitations of this subdivision, a prisoner sentenced to the state prison under Section 1170 for whom the sentence is executed shall have one day deducted from his or her period of confinement for every day he or she served in a county jail, city jail, industrial farm,

The People do not dispute defendant's calculations, but assert, without citing any *authority*, that defendant's claim for additional *presentence* credit must be directed to the Department of Corrections and Rehabilitation (CDCR). We are not persuaded.

The trial court has traditionally borne the responsibility for calculating *presentence* custody credits. Although the People argue that current section 2933, subdivision (e)(1) shifts this responsibility to CDCR, we reject the argument as unsupported.

#### **DISPOSITION**

The matter is remanded to the trial court with directions to award defendant three additional days of conduct credit, for a total of 22 days of presentence custody credit (11 actual days and 11 conduct days), to prepare an amended abstract of judgment reflecting the proper award of credits, and to provide a

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or road camp from the date of arrest until state prison credits pursuant to this article are applicable to the prisoner."

Section 4019, subdivision (f) provides: "It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody."

Section 4019, subdivision (h) provides in part: "Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law."

certified copy of the amended abstract of judgment to CDCR.

In all other respects, the judgment is affirmed.

\_\_\_\_\_, DUARTE, J.

We concur:

\_\_\_\_\_, BLEASE, Acting P. J.

\_\_\_\_\_, MAURO, J.